

MAR 27 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUANA ROMAN-GUTIERREZ,

Petitioner

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent

No. 06-71105

Agency No. A75-713-374

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Juana Roman-Gutierrez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' denial, as untimely filed, of her

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

motion to reopen the underlying denial of her application for cancellation of removal.

We review the BIA's denial of a motion to reopen or reconsider for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir.2002). The regulations state that a motion to reopen removal proceedings must be filed no later than ninety days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened. *See* 8 C.F.R. § 1003.2(c)(2). A review of the administrative record demonstrates that the BIA did not abuse its discretion in denying petitioner's motion to reopen as untimely. Petitioner's final administrative order of removal was entered on April 2, 2004. Petitioner's motion to reopen was filed on November 14, 2005, more than ninety days after the date on which the final order of removal was entered. *See* 8 C.F. .R. § 1003.2(c)(2).

Petitioner seeks review of the BIA's denial of her request to *sua sponte* reopen proceedings, but this court lacks jurisdiction. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.